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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,622	05/24/2006	Christopher Patrick	040132	4386
23596 7590 09/01/2009 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER HERRERA, DIEGO D				
ART UNIT 2617		PAPER NUMBER		
NOTIFICATION DATE 09/01/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/580,622

**Applicant(s)**

PATRICK, CHRISTOPHER

**Examiner**

DIEGO HERRERA

**Art Unit**

2617

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 10 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Lester Kincaid/  
Supervisory Patent Examiner, Art Unit 2617

/Diego Herrera/  
Examiner, Art Unit 2617

Continuation of 11, does NOT place the application in condition for allowance because: The applicant arguments are: "collecting in a mobile station, position estimate information transmitted by a location node in one or more messages carried on at least one of a common channel or a dedicated channel, and wherein the PEI in the one or more messages includes a location node identification and longitude and latitude information of the location node" furthermore, "PIE message includes a location node identification and longitude and latitude information of the location node", as not been taught by the reference of Stein however, the examiner respectfully disagrees with appellants arguments. Stein does teach location node identification having the information as stated in appellants remarks as cited by Stein in paragraphs 41-43, wherein the repeaters provide their identification code assigned to the repeater and a position estimate to be provided to nearby terminals. therefore, the location of the node and identification of the node, position does suggest longitude and latitude, even if it doesn't one of ordinary skill in the art would be able to obtain such information as it is notoriously well known however, these elements are not novel features of the claims. the applicant argues that GPS satellites cannot be a location node, however, in the original specification paragraph 31, 41; that GPS and CDMA communication system can be implemented to acquire location information and identification information of a location node, this is not different than the hybrid system used by Stein, i.e. : 9-13, 138, 143, further teaching the system in place, and along with signal information provided by the mobile terminal to the system about measurements and identification information provided by base stations, repeaters, and/or other network equipment to the PDE...furthermore, the example in appellants specification is that of an example it is not defined as a necessary parameter but that of an example of a parameter that can be applied. Nevertheless, the latitude and longitude been sent to the mobile terminal are suggested in paragraphs 41-43, therefore, they meet the limitation set forth in the claim. As to finding the location of a mobile device, base station and repeaters are understood to be fix locations, if this is true ,then the latitude and longitude are known and needful in determining the location of mobile terminal; the PDE in the reference of Stein needs this type of information to make calculations to determined the location of the mobile terminal as it is received from the mobile terminal and then sent to the PDE and therefore, obtain an estimate position of the terminal. therefore, claim 1 is not allowable for reasons stated above and so are claims 42, 62, 27, 63, 64, and all the dependent claims for the same reasons. as to appellants arguments of the reference of Stein et al. this reference was published January 9, 2003 well beyond the submission of the filing date of 5/24/2006 of the appellants application even with the benefit of the PCT date of November 24, 2004. the Assignee is the same in both the application and the reference however the inventor entity is not the same and it qualifies as "by another" therefore, the reference of Stein is correctly applied and cannot be disqualified as a prior art reference under 35 U.S.C. 103 section e.